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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,000	02/20/2004	Richard T. Strasser	STRASS 3.0-002	5862
530 7590 07/27/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/784,000

**Applicant(s)**

STRASSER ET AL.

**Examiner**

James F. Hook

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-15,19-24,32,33 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-15,19-24,32,33 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 37 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The subject matter of claim 37 has now been placed in the independent claim from which claim 37 depends, therefore this subject matter is being positively recited twice and therefore fails to further limit the independent claim 33 from which it depends, or more specifically claim 36 which is dependent from claim 33..

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dougherty. The patent to Dougherty discloses the recited illuminated hose, where the use of such as a fire hose is considered merely intended use where the hose of Dougherty is capable of use as a fire hose, comprising a hose 36 having first and second ends with interior and exterior walls, a sleeve 38 secured over the exterior surface of the hose, at least one light emitting element 47,48 is provided as a bundle of

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optical fibers where more than one fiber can be provided, the bundle can be wrapped around the length of the sleeve, the sleeve is made of flexible material, a clear material 43 is attached to the sleeve to hold the light emitting element, where such is a polymer material, the light emitting elements can vary in color and can be visible outside the hose, where the light emitting element inherently would be longer than the distance of the hose for it to extend the same distance yet be wrapped around the hose exterior, and such is connected to a light source. The patent to Dougherty shows that the light emitting elements extend the length of the sleeve in which they are disposed which covers the inner tube 36, and can be continuously visible between the first and second ends, where the claim language does not suggest it has to be seen along the entire length, therefore this claim language allows for some blockage as long as the light from the fiber can be continuously seen between the first and second ends. It is held that without the further limitation that such be seen along the entire length of the hose, that such is not necessarily required by the current claim language. However, should the language of the claim be considered as applicant argues in the amendment remarks of April 26, 2007, then the following rejection would also be considered applicable to the claims above (see rejection under 35 USC 103(a) below).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 are rejected under 35 U.S.C.

103(a) as being unpatentable over Dougherty in view of Smith. As set forth above, Dougherty is considered to teach a continuously visible light element. The patent to Smith discloses that it is old and well known in the art to provide indicating means that can either be formed as separate indicating means 18, or indicating means 5 which can be provided along the entire length of the hose so that such can be seen continuously along the entire length of the hose. It would have been obvious to one skilled in the art to modify the light element of Dougherty such that it can be continuously visible along the entire length of the sleeve between the first and second ends as suggested by Smith where such would insure that the indicating means could be seen from any angle at anytime thereby insuring the location of the hose could be seen at all times.

Claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 are rejected under 35 U.S.C.

103(a) as being unpatentable over Rickard's in view of Dougherty. The reference to Rickard's discloses the recited fire hose comprising a hose 10 for use with a fire engine thereby making such a fire hose where such has first and second ends with interior and exterior walls, a sleeve 22 formed of a flexible fabric material is provided over the hose to protect such, the sleeve can be formed of a piece of material that is sewn along its edges which inherently would include at least some overlap of the seam to allow for sewing, the length of the sleeve can be longer or shorter than the hose it is protecting, hook and loop fasteners can hold the sleeve to the hose, a pocket can be provided for holding other structures to the sleeve, and reflective material 66 can be provided to

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allow such to be easily seen, where such can be of a single or multiple colors. The reference to Rickards discloses all of the recited structure with the exception of providing the sleeve with a fiber optic element to allow such to be seen in dark environments, providing such with a clear sleeve of polymeric material to hold the fiber optic element to the fabric sleeve, where multiple colors of light can be used in the fiber optic cable. The patent to Dougherty discloses all of the structure set forth above, it would have been obvious to one skilled in the art to modify the reflection element in Rickards to be a fiber optic element as such would allow the sleeve to be seen in dark environments where there isn't sufficient light to see reflect off of reflective portions, and to provide a clear sleeve of polymer material to hold the fiber optic element to the fabric sleeve and to provide the fiber optic elements with different color light as suggested by Dougherty where such would provide the sleeve with an element that can be seen in dark environments without requiring light to reflect off of it for the sleeve to be seen where such is an alternative manner to allow for a hose to be seen to the use of reflective type bands, and where different color lights is equivalent to different color reflective elements, where such would further protect the hose in low light applications thereby preventing damage and saving money in premature replacement costs. Rickards appears to show that the element is continuously visible as such extends substantially the entire length of the sleeve, however providing the element such that it is continuously visible is considered merely a choice of mechanical expedients and one skilled in the art would only require routine experimentation to arrive at a sleeve that

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was provided with a continuously visible element as such would only require routine skill in the art.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rickards in view of Dougherty as applied to claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 above, and further in view of Romero. The patent to Rickards as modified discloses all of the recited structure with the exception of closing the longitudinal seam of the sleeve with hook and loop fasteners. The patent to Romero discloses that it is old and well known in the art of protective sleeves to provide such with longitudinal seams that are provided with hook and loop fasteners to hold the seam closed but allow such to be opened for easier application of the sleeve to the item it is protecting. It would have been obvious to one skilled in the art to modify the sleeve in Rickards as modified by using a hook and loop fastener for the longitudinal seam of the sleeve to allow such to be applied more easily to the outside of the pipe being protected as suggested by Romero where such would allow for easier application of the sleeve to the hose thereby saving time and money for the user to apply the sleeve to the hose to be protected.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rickards in view of Dougherty as applied to claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 above, and further in view of Dunphy. The patent to Rickards as modified discloses all of the recited structure with the exception of using epoxy to hold elements of the sleeve together. The patent to Dunphy discloses that it is old and well known in the art to provide epoxy to hold elements of a tubing together, including fiber optic cables to reinforced layers. It is considered that epoxy is inherently substantially

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transparent as such is a known property of epoxy. It would have been obvious to one skilled in the art to modify the sleeve in Rickards as modified by providing an epoxy to hold elements together to insure the fiber optic cable does not shift with respect to the reinforcing layers as suggested by Dunphy where such would insure the elements stayed connected together thereby preventing premature failure and saving money in replacement or repair costs.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 5-15, 19-24, 32, 33, and 36-38 have been considered but are moot in view of the new ground(s) of rejection.

With regards to the Dougherty reference, it was argued that Dougherty does not teach a fiber optic provided in a sleeve, however, this is not persuasive when the sleeve formed of layers 37,38 forms a sleeve with the fiber optic provided thereon and covered by a cover element 39 which can include clear portions 43 which allow the fiber optic element to be seen thereby meeting the structure of a sleeve that is provided over tube or hose 36. The remaining arguments are considered moot in view of the new rejection above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



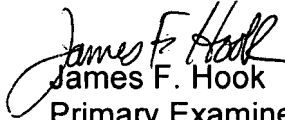
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
James F. Hook  
Primary Examiner  
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JFH